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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,920	12/21/2000	Kenneth C. Parker	SYP-155 7783/571	2871
959	7590	11/02/2005	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			SKIBINSKY, ANNA	
			ART UNIT	PAPER NUMBER
			1631	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/745,920	Applicant(s) PARKER, KENNETH C.	
	Examiner Anna Skibinsky	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-24 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) 30-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-24 and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Applicant's amendments dated July 22, 2005 are noted and have been in this Office Action.

Applicant's arguments, filed July 22, 2005, have been fully considered but they are not deemed persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-24, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yates, III et al. in view of Gras et al in view of Wright et al.

Yates, III et al. describe a method of using tandem mass spectrometry to match experimentally determined sequences to protein sequences in a sequence library on a computer. Yates, III et al. does not however teach the use of mass intensity scores (as pointed out in the Office Action of April 22, 2005, page 5, line 13). As noted in the

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Remarks of July 22, 2005, Yates does not teach a "biomolecule fragment detection parameter."

Gras et al. teaches the calculation of an "identification score" on page 3542, Section 2.4.3, The algorithm (lines 5-6 of section), and defines the parameters for the scoring function in Section 2.4.3.2, Definition of the score, (lines 21-27 of section and equation). This was pointed to on page 6, lines 11-13 in the Office Action of April 22, 2005.

The limitation in claim 1 recites that the biomolecule fragment score comprises a function of a biomolecule fragment detection parameter which is the "likelihood of detecting said biomolecule fragment ... based at least in part on relative mass signal intensity relationships." Gras et al. also uses, in part, the intensity of the peaks to determine a score for matching the searched protein and the candidate proteins through peptide mass fingerprinting.

Furthermore, Gras et al. teach a "mass level" (as pointed out in the Office Action of April 22, 2005, page 5, lines 13-15) on page 3541, column 2, paragraph 3 which corresponds to the mass error of the mass signal as recited in claim 1. The degree of matching between the mass of the peptide fragment and the mass of the searched protein is characterized. The mass level (page 3541, column 2, paragraph 4) includes determining the confidence level for the match based on comparing the experimental mass with the theoretical mass of the protein. These "level 2" mass parameters are further described (page 3543, column 1, paragraph 4 to column 1, lines 1-2) to include

the standard deviation that gives insight to the correspondence between the masses of the matched peptides and the spectrometer error.

Conclusion

The arguments in the Office Action dated April 22, 2005 are upheld.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anna Skibinsky whose telephone number is (571) 272-4373. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571) 272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ardin H. Marschel 10/31/05
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER